(6)

C/F 2000

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 1709/2001

PETITIONER : 1. Bhanwer Lal
S/o Radheshyam Nag
R/o Rampur Ward-Gokulpur
Dhamtari (C'garh).

2. Vijay Kumar
S/o Gopal Kumhar
R/o Rampur Ward-Gokulpur
Dhamtari (C'garh).

P.R. No. 1588/07
Presented by Shri ...
dated 16.8.2001

- Versus -

RESPONDENTS : 1. State of Chhattisgarh
Through Collector,
Dhamtari(C'garh).

2. The Additional Commissioner,
Raipur Division,
Raipur(C'garh).

3. Board of Revenue,
Through: Member,
Board of Revenue,
Gwalior(M.P.)

16.8.2001

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION FOR ISSUANCE OF A WRIT IN THE NATURE OF PROHIBITION, CERTIORARI, MANDAMUS ETC. OR ANY OTHER WRIT OR DIRECTION.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(3)

आदेश पत्रक

W.P.No.1709/2001

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

4/10/2001

Heard Shri V.K. Pandey, learned counsel for the petitioners and Shri Rajeev Shrivastava, learned PL for the respondents/State.

Petitioners' case No.128/A-67/99-2000 was dismissed by learned Additional Commissioner, Raipur on 10/11/99 on the ground that the party defaulted on the fixed date. A petition for restoration was made taking the ground that on the particular date fixed in the above case, the mother of the counsel engaged by the petitioner died andthe learned counsel could not come to the Court. Despite this ground clearly stated in the petition, the said petition for restoration was rejected by the learned Additional Commissioner. On 17/1/2000 the petitioner approached the Board of Revenue by filing a revision petition against the order of rejection for restoration of the aforesaid case. However, unfortunately, the learned Board of Revenue also rejected the petition by order dated 20/4/2000 (Annexure P/7). Having no other alternative, the writ petitioner has approached this Court under Article 226/227 of the Constitution of India. It is contended by learned counsel for the petitioner that ~~in other words~~, the writ petitioner has a very argueable and strong case to go and file ~~to trial~~.

[पीछे देखिये

आदेश पत्रक (पुर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

After hearing learned counsel for the petitioner as well as Shri Rajeev Shrivastava, learned PL for the respondents/State at some length and on perusal of the relevant documents filed before me, I am of the opinion that the learned Court below ought to have examined the matter on merits. In other words, in my view, there was sufficient cause for restoration of the case inasmuch as good ground was shown by the petitioner for the default. The fact that on the fixed date the mother of the counsel engaged in the case died is sufficiently a good reason which ought to have been taken into consideration while examining the petition for restoration ~~of the order of dismissal.~~

In the result, this petition is allowed. The impugned orders passed by the learned Additional Commissioner and Board of Revenue are set-aside and the matter is remitted to the Additional Commissioner to decide on merit. Accordingly the case shall stand restored to its original number. The learned Additional Commissioner shall issue notices to the parties ~~afresh~~ and after giving them adequate opportunity of hearing, the matter shall be disposed of. The petitioner shall appear before the learned Additional Commissioner on 17/10/2001.

Certified copy as per rules.

Sd/-
Chief Justice

rsnr*

GRPRJ—FS/311—1/2001—50,000.